

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs February 3, 2004

**EDDIE J. PHIFER v. STATE OF TENNESSEE**

**Appeal from the Circuit Court for Robertson County**  
**No. 5442 Michael R. Jones, Judge**

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**No. M2003-02236-CCA-R3-HC - Filed March 3, 2004**

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The appellant, Eddie J. Phifer, was found guilty of aggravated rape and aggravated kidnapping and sentenced to twenty-five years for each conviction to be served consecutively. The appellant filed a motion for a new trial on June 20, 1980 and another motion for a new trial on June 30, 1980. The trial court denied the motion for a new trial on March 6, 1981 and no appeal was filed. In July, 2003, the appellant filed a petition for writ of habeas corpus alleging that he is entitled to habeas corpus relief because a judgment was never rendered against him. The trial court dismissed the petitions. After a review of the record before this Court we AFFIRM the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Trial Court is Affirmed.**

JERRY L. SMITH, J., delivered the opinion of the court, in which DAVID H. WELLES, and THOMAS T. WOODALL, JJ., joined.

Eddie J. Phifer, *pro se*, Crestview, Florida.

Paul G. Summers, Attorney General & Reporter; Kathy Aslinger, Assistant Attorney General; John Carney, District Attorney General; and Dent Morriss, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

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Factual Background

Appellant alleges that he is being unlawfully detained because a final judgment form signed by the trial judge was never entered in this case. The appellant admits that a jury found him guilty of aggravated rape and aggravated kidnapping and that he was sentenced to twenty-five years for each offense. In addition, he asserts that he was denied his right to appeal due to the absence of a final judgment. On July 25, 2003, the trial court entered an order which dismissed the appellant's

petition, concluding that the appellant failed to state any grounds for habeas corpus relief. On August 1, 2003, the appellant filed a motion to rehear which was denied. On September 2, 2003, he filed this notice of appeal.

### Habeas Corpus Relief

The Tennessee Supreme Court has explained the very limited scope of habeas corpus relief in Tennessee, as follows:

Habeas corpus relief is available in Tennessee only when “it appears upon the face of the judgment or the record of the proceedings upon which the judgment is rendered” that a convicting court was without jurisdiction or authority to sentence a defendant, or that a defendant’s sentence of imprisonment or other restraint has expired.

Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993). This Court has stated that “[i]f the court rendering a judgment has jurisdiction of the person, the subject-matter, and has the authority to make the challenged judgment, the judgment is voidable, not void; and the judgment may not be collaterally attacked in a suit for habeas corpus relief.” Passarella v. State, 891 S.W.2d 619, 627 (Tenn. Crim. App. 1994).

A habeas court is not required, as a matter of law, to grant the writ and conduct an inquiry into the allegations contained in the petition. See Tenn. Code Ann. § 29-21-109; Passarella, 891 S.W.2d at 627. If the petition fails to state a cognizable claim, the petition may be dismissed by the habeas court summarily. See State ex rel. Byrd v. Bomar, 381 S. W.2d 280 (Tenn. 1964).

The appellant has failed to establish by a preponderance of the evidence that the trial court lacked jurisdiction or authority to sentence him or that his sentence has expired. The issue the appellant raised may be appropriately characterized as a “technical concern” regarding the judgment. This issue does not render his convictions void. See John Haws Burrell v. Howard Carlton, Warden, No. E2002-01613-CCA-R3-PC, 2003 WL 22381171, at \*2 (Tenn. Crim. App. at Knoxville, Oct. 17, 2003) (concluding that the trial court’s failure to complete a separate judgment form for each conviction was a “technical concern” that was not an appropriate basis for habeas corpus relief). This Court has held that the failure of the trial court to sign the judgment or the court minutes does not create a jurisdictional defect rendering the appellant’s convictions void. See James Russell Gann v. David Mills, Warden, No. E2003-00281-CCA-R3-PC, 2003 WL 21714064, at \*1 (Tenn. Crim. App. at Knoxville, July 24, 2003), perm. app. denied (Tenn. Nov. 24, 2003); Kenneth Lee Weston v. State, No. E1999-02095-CCA-R3-CO, 2000 WL 1739218, at \*1-2 (Tenn. Crim. App. at Knoxville, Nov. 27, 2000), perm. app. denied (Tenn. May 14, 2001); Willie James Robinson, Jr. v. State, No. E1999-00945-CCA-R3-PC, 2000 WL 1228023, at \*1-2 (Tenn. Crim. App. at Knoxville, Aug. 30, 2000), perm. app. denied (Tenn. Jan. 16, 2001). In addition, this Court has found that a judgment is valid if it is entered in the court minutes, as the “court minutes are the highest evidence of what has been done in court.” Marvin Anthony Matthews v. Charles C. Noles, Warden, No.

02C01-9206-CC-00140, 1993 WL 46546, at \*1-2 (Tenn. Crim. App. at Jackson, Feb. 24, 1993), perm. app. denied (Tenn. June 1, 1993); see also Willie James Robinson, Jr., 2000 WL 1228023, at \*1-2.

The transcript included in the technical record indicates that the trial court sentenced the defendant in accordance with the jury's verdict and ordered the sentences to be served consecutively. Even though the record in this case does not contain a standard judgment form, it does contain the court minutes which were entered May 30, 1980. The minutes provides in part the following:

. . . "We find the defendant guilty of the offense of aggravated rape and fix his punishment at 25 years in the state penitentiary and We find the defendant guilty of the offense of aggravated kidnapping and fix his punishment at 25 years in the state penitentiary."

It is therefore ordered by the Court according to the findings of the jury aforesaid that the defendant is guilty of aggravated kidnapping and aggravated rape, the same being Class X, offenses.

It is further ordered by the Court, as found by the jury aforesaid, that the defendant shall be confined in the State Penitentiary for a period of not less than 25 nor more than 25 years for each offense and pay the costs of this cause for which execution shall issue.

It is further ordered by the court for good cause stated in the record, that these sentences shall run consecutively.

We have determined that there is nothing in this judgment that suggests that the court lacked jurisdiction or authority to sentence the appellant or that the appellant's effective fifty-year sentence has expired. Therefore, this issue is without merit.

#### Conclusion

Based on the limited scope of habeas corpus relief and the appellant's failure to establish by a preponderance of the evidence that the trial court lacked jurisdiction or authority to sentence him or that his sentence has expired, we affirm the judgment of the trial court.

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JERRY L. SMITH, JUDGE